

pipeline safety, the release of natural gas when making planned repairs, replacements, or maintenance to a pipeline facility;

“(ii) the best available technologies or practices to prevent or minimize, without compromising pipeline safety, the release of natural gas when the operator intentionally vents or releases natural gas, including blowdowns; and

“(iii) pipeline facility designs that, without compromising pipeline safety, mitigate the need to intentionally vent natural gas; and

“(B) recommending a timeline for updating pipeline safety regulations, as the Secretary determines to be appropriate, to address the matters described in subparagraph (A).

“(2) RULEMAKING.—Not later than 180 days after the date on which the Secretary submits the report under this subsection, the Secretary shall update pipeline safety regulations that the Secretary has determined are necessary to protect the environment without compromising pipeline safety.”

PIPELINE SAFETY MANAGEMENT SYSTEMS

Pub. L. 116-260, div. R, title II, §205, Dec. 27, 2020, 134 Stat. 2240, provided that:

“(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of Transportation] shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report describing—

“(1) the number of operators of natural gas distribution systems who have implemented a pipeline safety management system in accordance with the standard established by the American Petroleum Institute entitled ‘Pipeline Safety Management System Requirements’ and numbered American Petroleum Institute Recommended Practice 1173;

“(2) the progress made by operators of natural gas distribution systems who have implemented, or are in the process of implementing, a pipeline safety management system described in paragraph (1); and

“(3) the feasibility of an operator of a natural gas distribution system implementing a pipeline safety management system described in paragraph (1) based on the size of the operator as measured by—

“(A) the number of customers the operator has; and

“(B) the amount of natural gas the operator transports.

“(b) REQUIREMENTS.—As part of the report required under subsection (a), the Secretary shall provide guidance or recommendations that would further the adoption of safety management systems in accordance with the standard established by the American Petroleum Institute entitled ‘Pipeline Safety Management System Requirements’ and numbered American Petroleum Institute Recommended Practice 1173.

“(c) EVALUATION AND PROMOTION OF SAFETY MANAGEMENT SYSTEMS.—The Secretary and the relevant State authority with a certification in effect under section 60105 of title 49, United States Code, as applicable, shall—

“(1) promote and assess pipeline safety management systems frameworks developed by operators of natural gas distribution systems and described in the report under subsection (a), including—

“(A) if necessary, using independent third-party evaluators; and

“(B) through a system that promotes self-disclosure of—

“(i) errors; and

“(ii) deviations from regulatory standards; and

“(2) if a deviation from a regulatory standard is identified during the development and application of a pipeline safety management system, certify that—

“(A) due consideration will be given to factors such as flawed procedures, honest mistakes, or lack of understanding; and

“(B) the operators and regulators use the most appropriate tools to fix the deviation, return to compliance, and prevent the recurrence of the deviation, including—

“(i) root cause analysis; and

“(ii) training, education, or other appropriate improvements to procedures or training programs.”

UPDATE TO MINIMUM SAFETY STANDARDS

Pub. L. 114-183, §27(b), June 22, 2016, 130 Stat. 532, provided that: “The Secretary of Transportation shall review and update the minimum safety standards prescribed pursuant to section 60103 of title 49, United States Code, for permanent, small scale liquefied natural gas pipeline facilities.”

§ 60104. Requirements and limitations

(a) OPPORTUNITY TO PRESENT VIEWS.—The Secretary of Transportation shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments when prescribing a standard under this chapter.

(b) NONAPPLICATION.—A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.

(c) PREEMPTION.—A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.

(d) CONSULTATION.—(1) When continuity of gas service is affected by prescribing a standard or waiving compliance with standards under this chapter, the Secretary of Transportation shall consult with and advise the Federal Energy Regulatory Commission or a State authority having jurisdiction over the affected gas pipeline facility before prescribing the standard or waiving compliance. The Secretary shall delay the effective date of the standard or waiver until the Commission or State authority has a reasonable opportunity to grant an authorization it considers necessary.

(2) In a proceeding under section 3 or 7 of the Natural Gas Act (15 U.S.C. 717b or 717f), each applicant for authority to import natural gas or to establish, construct, operate, or extend a gas pipeline facility subject to an applicable safety standard shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain a gas pipeline facility under those standards and plans for inspection and maintenance under section 60108 of this title. The certification is binding on the Secretary of Energy and the Commission except when an appropriate enforcement agency has given timely written notice to the Commission that the applicant has violated a standard prescribed under this chapter.

(e) LOCATION AND ROUTING OF FACILITIES.—This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1308; Pub. L. 107-355, §3(a), Dec. 17, 2002, 116 Stat. 2986.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
60104(a)	49 App.:1672(c). 49 App.:2002(g).	Aug. 12, 1968, Pub. L. 90-481, §3(c), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96-129, §§104(a)(2), (c), 109(c), 93 Stat. 992, 994, 996. Nov. 30, 1979, Pub. L. 96-129, §§202(4) (28th-last words), 203(c) (last sentence), (g), 93 Stat. 1003, 1004, 1005.
60104(b)	49 App.:1672(a)(1) (6th sentence).	Aug. 12, 1968, Pub. L. 90-481, §3(a)(1) (6th, 9th, last sentences), 82 Stat. 721; Oct. 11, 1976, Pub. L. 94-477, §4(2), 90 Stat. 2073; Nov. 30, 1979, Pub. L. 96-129, §§101(a), 109(c), (e), 93 Stat. 990, 996; Oct. 24, 1992, Pub. L. 102-508, §116, 106 Stat. 3298.
60104(c)	49 App.:2002(c) (last sentence). 49 App.:1672(a)(1) (9th, last sentences). 49 App.:2002(d).	Nov. 30, 1979, Pub. L. 96-129, §203(d), 93 Stat. 1004; Oct. 24, 1992, Pub. L. 102-508, §215, 106 Stat. 3305.
60104(d)	49 App.:1676(a).	Aug. 12, 1968, Pub. L. 90-481, §9(a), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96-129, §§109(1), 152(a), (b)(3), 93 Stat. 997, 999, 1001; Oct. 30, 1988, Pub. L. 100-561, §105(1), 102 Stat. 2807.
60104(e)	49 App.:1671(4) (33d-last words). 49 App.:2001(4) (28th-last words).	Aug. 12, 1968, Pub. L. 90-481, §2(4) (33d-last words), 82 Stat. 720.

Subsection (a) is substituted for 49 App.:1672(c) (last sentence) and 2002(g) (last sentence) to eliminate unnecessary words. The text of 49 App.:1672(c) (1st sentence) and 2002(g) (1st sentence) is omitted as unnecessary because 5 ch. 5, subch. II applies unless otherwise stated.

In subsection (c), the words “prescribed under this chapter” are added for clarity. The words “after the Federal minimum standards become effective” in 49 App.:1672(a) (last sentence) are omitted as obsolete.

In subsection (d)(1), the words “waiving compliance” are substituted for “action upon application for waiver” and “acting on the waiver application” to eliminate unnecessary words. The words “the provisions of” are omitted as surplus. The word “authority” is substituted for “commission” for consistency in the revised title and with other titles of the Code.

In subsection (d)(2), the words “and conclusive” are omitted as being included in “binding”. The words “Secretary of Energy” are substituted for “Department of Energy” because of 42:7231.

Editorial Notes

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-355 inserted at end “Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.”

§ 60105. State pipeline safety program certifications

(a) GENERAL REQUIREMENTS AND SUBMISSION.—Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) CONTENTS.—Each certification submitted under subsection (a) of this section shall state that the State authority—

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title;

(4) is encouraging and promoting the establishment of a program designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 60117 of this title;

(6) may require that plans for inspection and maintenance under section 60108 (a) and (b) of this title be filed for approval;

(7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 60120 and 60122(a)(1) and (b)–(f) of this title;

(8) has the capability to sufficiently review and evaluate the adequacy of the plans and manuals described in section 60109(e)(7)(C)(i); and

(9) has a sufficient number of employees described in paragraph (3) to ensure safe operations of pipeline facilities, updating the State Inspection Calculation Tool to take into account factors including—

(A) the number of miles of natural gas and hazardous liquid pipelines in the State, including the number of miles of cast iron and bare steel pipelines;

(B) the number of services in the State;

(C) the age of the gas distribution system in the State; and